

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NOS. 2002-3-E and 2003-3-E ORDER NO. 2004-537

OCTOBER 27, 2004

IN RE: Duke Power – Annual Review of Base Rates for Fuel Costs.) ORDER APPROVING) STIPULATION) BETWEEN DUKE) POWER AND THE) SOUTH CAROLINA) CONSUMER) ADVOCATE
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This Order is issued to approve a Stipulation entered by Duke Power (“Duke”) and the South Carolina Consumer Advocate (“Consumer Advocate”) in the above two captioned docket numbers. A copy of the stipulation between the Consumer Advocate and Duke was filed with the Public Service Commission of South Carolina (“Commission”) on April 20, 2004, and is incorporated into by reference and attached to this Order as Attachment A.

In its annual Orders issued in Docket Nos. 2002-3-E and 2003-3-E, the Commission approved a recovery through Duke’s fuel clause, of the full cost of Duke’s economy purchases of electrical power, including transportation, so long as the cost of such purchases was less than Duke’s avoided cost for the generation of the equivalent amount of power, a treatment which the Consumer Advocate challenged. The Consumer Advocate appealed the Commission’s treatment in Docket No. 2002-3-E, and the parties

agreed by Stipulation to include Docket No. 2003-3-E, as being contingent upon the final outcome of the Consumer Advocate's appeal in Docket No. 2002-3-E.

On March 22, 2004, South Carolina Circuit Court Judge John C. Hayes, III, issued an Order reversing the Commission's decision and finding that S. C. Code Ann. Sec. 58-27-865, et. seq. only allowed recovery of fuel costs, including the fuel costs related to purchased power. Subsequently, the South Carolina General Assembly amended S. C. Code Ann. Sec. 58-27-865, *supra*, clarifying its intention to allow recovery of the full cost of purchased electrical power pursuant to the avoided cost methodology.

As a result of these appeals and the action of the South Carolina General Assembly, the parties agreed to enter a Stipulation in which Duke has agreed to reduce its recovery through its fuel factor by five hundred thousand dollars (\$500,000.00) to settle all matters raised by the Consumer Advocate in Docket Nos. 2002-3-E and 2003-3-E. The specific accounting for this amount is reflected in the Stipulation. As this Stipulation finally resolves the matters on appeal, appears to the Commission to be reasonable, and is in the best interest of Duke and its customers, we hereby approve the Stipulation between Duke and the Consumer Advocate dated April 20, 2004, and order its adoption.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)